

The jurisdiction of the Appeals Board to review preliminary hearing findings is statutorily created by K.S.A. 44-534a. The statute provides the Appeals Board may review those preliminary findings pertaining to the following: (1) whether the employee suffered an accidental injury; (2) whether the injury arose out of and in the course of the employee's employment; (3) whether notice was given or claim timely made; and (4) whether certain defenses apply.

Similarly, K.S.A. 44-551, as amended by S.B. 59, 1995, empowers the Appeals Board to review findings of the Administrative Law Judge where it is alleged they have exceeded their jurisdiction and authority.

Neither issue presented herein is one enumerated in K.S.A. 44-534a, nor did the Administrative Law Judge exceed his jurisdiction and authority. Therefore, neither issue raised by the claimant is reviewable under either of the above statutes. Although claimant may disagree with the Judge's decision, the Administrative Law Judge has the authority to decide and rule upon those issues.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge George R. Robertson entered in this proceeding on February 17, 1995, remains in full force and effect and this review is dismissed.

IT IS SO ORDERED.

Dated this ____ day of May 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: James S. Oswalt, Wichita, KS
Scott J. Mann, Hutchinson, KS
George R. Robertson, Administrative Law Judge
George Gomez, Director